

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, ex rel., JOHN)
DOAK, INSURANCE COMMISSIONER,)
AS RECEIVER FOR PARK AVENUE)
PROPERTY & CASUALTY INSURANCE)
COMPANY,)

AND)

STATE OF OKLAHOMA, ex rel., JOHN)
DOAK, INSURANCE COMMISSIONER,)
AS RECEIVER FOR IMPERIAL)
CASUALTY AND INDEMNITY)
COMPANY,)

Plaintiffs,)

v.)

STAFFING CONCEPTS)
INTERNATIONAL, INC.)

Defendant.)

Case No. CIV-12-409-M
(Oklahoma County Case No.
CJ-2012-1513)

DEFENDANT'S NOTICE OF REMOVAL

Defendant Staffing Concept International, Inc., through its undersigned counsel and pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, and LCvR 81.2, hereby remove the above styled action from the District Court of Oklahoma County, Oklahoma, to the United States District Court for the Western District of Oklahoma. In support of this Notice of Removal, Defendant states as follows:

PROCEDURAL BACKGROUND

1. On March 9, 2012, Plaintiffs State of Oklahoma, ex rel. John Doak, Insurance Commissioner, as Receiver for Park Avenue Property and Casualty Insurance Company, and State of Oklahoma, ex rel. John Doak, Insurance Commissioner, as Receiver for Imperial Casualty and Indemnity Company (“Plaintiffs”) filed their Petition, attached hereto as Exhibit 1, in the District Court of Oklahoma County, Oklahoma, Case No. CJ-2012-1513, asserting twelve breach of contract claims. *See* Exhibit 1 at 5–16 ¶¶ 28–99.

2. On March 26, 2012, Plaintiffs’ Petition and Summons were served on Defendant Staffing Concepts International, Inc., via certified mail. Summons is attached hereto as Exhibit 2. Accordingly, this Notice of Removal is being filed within thirty (30) days “after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based,” as required by 28 U.S.C. § 1446(b), and is therefore timely.

3. In accordance with 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served upon Defendant are attached hereto as Exhibits 1 and 2. Pursuant to LCvR 81.2(a), a copy of the state court docket is attached hereto as Exhibit 3.

STANDARD FOR REMOVAL

4. “[A]ny civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

5. “Any civil action of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties or laws of the United States shall be removable without regard to the citizenship or residence of the parties. Any other such action shall be removable only if none of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.” 28 U.S.C. § 1441(b).

6. In accordance with 28 U.S.C. § 1446(d), Defendant Staffing Concepts International, Inc., is promptly filing a copy of this Notice of Removal (without exhibits) with the Clerk of the District Court of Oklahoma County, Oklahoma.

7. In accordance with 28 U.S.C. § 1446(d), Defendant Staffing Concepts International, Inc., is also giving written notice to Plaintiffs by promptly serving this Notice of Removal upon Plaintiffs’ Counsel.

8. This action may be removed to this Court, which embraces the place where this action is pending, pursuant to 28 U.S.C. § 1441(a) and (b), as one over which this Court has original jurisdiction based upon diversity of citizenship.

DIVERSITY OF CITIZENSHIP

9. Pursuant to 28 U.S.C. § 1332(a)(1), this Court has “original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between... citizens of different States.”

10. Upon information and belief, Plaintiffs were at the time of filing and are currently residents and citizens of Oklahoma, administered by John Doak as Commissioner of Insurance for the State of Oklahoma. *See* Exhibit 1 at ¶¶ 1–2.

Defendant Staffing Concepts International, Inc., is a corporation organized under the laws of Delaware with its principal place of business in Tampa, Florida.

11. In addition, on the face of their Petition, Plaintiffs pray for judgment in an amount allegedly approximated to be \$10,754,296 and additional pre- and post-judgment interest after December 31, 2011 at a rate of 18% per annum. *See* Exhibit 1 at 16–17. Accordingly, from the face of the Petition, the amount in controversy is allegedly in excess of \$75,000.

12. Defendant submits this Notice of Removal without waiving any right to request transfer of venue, without waiving any defense to the claims asserted by Plaintiffs, without conceding that Plaintiffs have plead claims upon which relief can be granted, without admitting the appropriateness of its inclusion as a proper party in this action, without admitting that Plaintiffs have standing, and without admitting that Plaintiffs are entitled to any monetary or equitable relief whatsoever.

WHEREFORE, Defendant Staffing Concepts International, Inc., respectfully requests that the above styled action now pending against it in the District Court of Oklahoma County, Oklahoma, be removed to the United States District Court for the Western District of Oklahoma; and, that said District Court assume jurisdiction of this action and enter such other and further orders as may be necessary to accomplish the requested removal and promote the ends of justice.

Dated: April 16, 2012

Respectfully submitted,

s/ *Monica L. Maple*

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ATTORNEY FOR DEFENDANT, STAFFING
CONCEPTS INTERNATIONAL, INC.

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of April, 2012, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of Defendant's Notice of Removal to the Following ECF registrants:

John M. O'Connor
Keith A. Wilkes
William W. O'Connor
Jon M. Payne
Gregory P. Reilly
NEWTON, O'CONNOR, TURNER & KETCHUM, P.C.
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s/ *Monica L. Maple*
